Guidelines for Initiating Direct Investigations

Under Section 7(1)(a)(ii) of The Ombudsman Ordinance, The Ombudsman is empowered to initiate investigations on his own volition, even though no complaint on the matter has been received.

This power enables The Ombudsman to be more proactive in his approach to problems of wide public interest and concern. It is particularly useful to –

(a) follow through related problems which investigation of the complaint alone may not be able to resolve;

(b) nip problems in the bud; and

(c) resolve repeated complaints, once and for all, by addressing the fundamental problems which may not be the subject of complaint, but are believed or suspected to be the underlying reasons for complaints.

To facilitate consideration of matters for direct investigation, The Ombudsman has established some general guidelines –

(a) the matter is one concerning public administration, in respect of which alleged or suspected maladministration as defined in The Ombudsman Ordinance is involved;

(b) the matter should be of sufficient dimension and complexity, representing the general interest, desire or expectation of the community, or at least a sector in the community;

(c) individual grievances will not normally be a candidate for direct investigation, as there is no reason why the individual concerned cannot come forward to lodge a complaint himself;

(d) the matter will not otherwise be actionable under the restrictions in Section 10(1) of The Ombudsman Ordinance, in relation to time-bar, the complainant not the individual aggrieved etc, which is nevertheless of grave concern to The Ombudsman;

(e) the matter is one not normally subject to the jurisdiction of the court nor a tribunal constituted under any Ordinance, or in respect of which it would not be reasonable to expect the affected person(s) to resort to the court or any tribunal for remedy; and

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(f) whether time is opportune for the direct investigation, weighing against the consequences of not doing so.

It is emphasised that the above are no more than guidelines, and the list is by no means exhaustive. Much will depend on the actual matter and the problems emerged.